Hovsepian v. Apple, Inc. Doc. 344

RACHEL KREVANS (CA SBN 116421)
MATTHEW I. KREEGER (CA SBN 153793)
JASON A. CROTTY (CA SBN 196036)
DAVID M. HYMAS (CA SBN 226202)
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522
RKrevans@mofo.com
MKreeger@mofo.com
JCrotty@mofo.com
DHymas@mofo.com

Attorneys for Defendants
ECHOSTAR SATELLITE LLC AND
ECHOSTAR TECHNOLOGIES CORP.

VICTOR G. SAVIKAS (CA SBN 145658)
LOUIS TOUTON (CA SBN 102380)
KEVIN G. McBRIDE (CA SBN 195866)
JONES DAY
555 South Flower Street, Fiftieth Floor
Los Angeles, California 90071
Telephone: 1.213.489.3939
Facsimile: 1.213.243.2539
vgsavikas@jonesday.com
lltouton@jonesday.com
kgmcbride@jonesday.com

Attorneys for Defendant
THE DIRECTV GROUP, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In re

ACACIA MEDIA TECHNOLOGIES CORPORATION

Case No. 05-CV-1114 JW
MDL No. 1665

SATELLITE DEFENDANTS' JOINDER IN ROUND 3 DEFENDANTS' PROPOSAL REGARDING ORAL ARGUMENT ON MOTIONS FOR SUMMARY JUDGMENT

Date: TBD
Time: TBD
Courtroom: 8, 4th Floor
Judge: Hon. James Ware

Dockets.Justia.com

Defendants EchoStar Satellite LLC, EchoStar Technologies Corp., and The DIRECTV Group, Inc. (the "Satellite Defendants") join in the Round 3 Defendants' Proposal Regarding Oral Argument on Its Motions for Summary Judgemnt of Invalidity Under 35 U.S.C. § 112 and Opposition to Acacia's Proposal, filed April 20, 2009 (Docket No. 343) ("Round 3 Defendants' Proposal"). The Satellite Defendants note that in addition to the issues listed in Appendix A of the Round 3 Defendants' Proposal, the Satellite Defendants' summary judgment briefs raise the following reasons for finding Acacia's claims invalid:

- Claims that do not include user requests claim more broadly than the specification describes and thus fail the written description requirement. (Claims 41 and 45 of the '992 patent, Claims 17-19 of the '863 patent, and Claim 11 of the '720).
- Claims 41 and 45 of the '992 patent lack written description because the specification does not disclose the "transmission system" "storing items having information in a source material library."
- Claims 41 and 45 of the '992 patent fail the written description and enablement requirements because the specification does not disclose how the transmission system gets information back from the physical items in the source material library.
- Claims 17-19 of the '863 patent fail the written description and enablement requirements because the specification does not describe anything putting physical items into the transmission system.
- Claim 11 of the '720 patent is invalid because the specification does not describe or enable "subscriber selectable receiving stations."

The Satellite Defendants respectfully request an opportunity to be heard on the merits of each of their summary judgment motions, as well as present argument on any other issues raised by the Court or the parties.

Respectfully submitted,

Dated: April 23, 2009

MORRISON & FOERSTER LLP

By: */s/ Rachel Krevans*
Rachel Krevans

Rachel Krevans
Matthew I. Kreeger
Jason A. Crotty
David M. Hymas

Attorneys for Defendants
ECHOSTAR SATELLITE LLC and
ECHOSTAR TECHNOLOGIES CORP.

Dated: April 23, 2009

JONES DAY

By: */s/ Kevin G. McBride*
Kevin G. McBride

Victor G. Savikas
Louis Touton
Kevin G. McBride

Attorneys for Defendant
THE DIRECTV GROUP, INC.

ECF CERTIFICATION

Pursuant to General Order No. 45, § X.B., the filing attorney attests that she has obtained concurrence regarding the filing of this document from the other signatory to the document.